Air Pollution Control Advisory Council Meeting
June 28, 2000 – 2:05 p.m. –3:55 p.m.
Conference Room 111 of the Metcalf Building
Department of Environmental Quality

Attendees

Council Members
Diane Lorenzen, Chemical Engineering
David Noell, Labor
Dean Johnson , Fuel Industry
Mike Machler, Meteorologist
Kathy Harris, Urban Planning
Linda Dworak, Veterinarian

Other Attendees
Gail Abercrombie, Montana Petroleum Assoc.
David Galt, Montana Motor Carrier Association;
Dexter Busby, Montana Refining Company
Deb Wolfe, DEQ
Chuck Homer, DEQ
Elton Erp, DEQ
Bob Habeck, DEQ
Abe Horpestad, DEQ
Jeff Blend, DEQ
Rich Southwick, DEQ
Dave Klemp, DEQ
Nancy Jones, DEQ

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1. Call to Order – Establish a Quorum. Chairman **Diane Lorenzen** called the Air Pollution Control Advisory Meeting (APCAC) to order at 2:05 p.m. in Conference Room 111 of the Metcalf Building in Helena, Montana, with a quorum present. Absent were Cliff Cox, Dennis Alexander, Mitchell Leu, and Brad Black.

a) **Introductions:** Mr. Habeck introduced **Linda J. Dworak**, veterinarian from Hamilton. She replaces Ed Peretti as a council member.
b) **Review of 5/11/00 Minutes:** Mr. Johnson said on page three, CO2 should be CO and catalytic "tracking" should be catalytic "cracking." Mr. Noell moved and Mike Machler seconded the acceptance of the minutes as corrected. Motion carried.
c) **Unfinished Council Business: None.**
d) **New Council Business:** Mr. Habeck said if any member wants to bring to the table a discussion item for next time, this would be the time to do that. If you think of it later, you can call Mr. Habeck.
d) **Member Reports to Council:** Mr. Habeck explained this would be where a member could express new ideas on topics that have been before the Council and is a long-standing issue.

2. **Housekeeping Remarks:** Mr. Habeck passed to the members an acronym handout for air quality words. He also passed out a copy of a site location map of the Redstone Gas Partners Coal Methane Project at Decker, Montana (Exhibit 1 of the minutes).

3. **Discussion Items:**

a) **EPA Proposed Diesel in Fuel Rule. Jeff Blend, Economist, PPAD, DEQ.**

Mr. Blend said the reduced sulfur in gasoline standard is already a final rule as of February 10, 2000. The proposed reduced sulfur in diesel standard was proposed in May and is in the comment stage. Final comments are due August 14. This is a complementary set of standards to the gasoline rule and addresses onroad heavy-duty vehicles that run on diesel, like trucks and buses. The proposed diesel rule would require manufacturers to produce vehicles that meet the same emission standards as passenger vehicles, and refiners to meet more stringent sulfur standards in their diesel fuel. Sulfur in gasoline or diesel would reduce the effectiveness of a vehicle's emission control system. If automobile manufacturers have to make improvements, the fuel must be such that it won't damage those improvements within the vehicle. Refiners of gasoline would be required to meet a corporate average sulfur standard of 120 ppm and a cap of 300 ppm beginning in 2004. By 2006 both of these numbers will be reduced to 80 ppm as a cap and 30ppm as a corporate average. Buyers and distributors of diesel fuel would be required to supply diesel fuel with a maximum sulfur content of 15 ppm. The current law permits sulfur content in diesel of 500 ppm. The law requiring this would take effect on June 1, 2006, for diesel refiners and one year later for new diesel onroad vehicles.

Mr. Blend said there would be two major areas of cost increases from the diesel rule. The diesel engine manufacturers would incur short-term costs in the beginning. Since there are no large engine manufacturers in Montana, this would have little effect in Montana. The second major area of cost involves refineries producing cleaner fuel. This could entail fairly large expenses as it means any given refinery would have to build and operate a desulfurization unit. Montana has four small refineries that would be affected by this rule. The expected cost for the diesel change in Montana is $1000 to $1600 per vehicle for design changes and an increase of six to eight cents per gallon for diesel fuel.

Mr. Blend said benefits for Montana would be cleaner air as each new heavy-duty truck and bus will be 95 percent cleaner than current models, and would be equivalent to removing 13 million of today's trucks off the road nationwide. In Montana this would mean decreased health problems and less crop and materials damaged from air pollution. There could be an increased flow of economic activity, if businesses want to move into areas that are cleaner and have fewer air problems. The proposed rule will assist Montana in creating a Regional Haze State Implementation Plan. It will also assist cities and towns to meet the National Ambient Air Quality Standards (NAAQS). There are eleven Montana cities and towns rated nonattainment areas for particulate matter.

Mr. Blend said EPA has discussed the possibility of small refinery compliance flexibility, which would permit small refineries to phase in some of these standards at a slower rate than larger refineries. He said going down to 50 ppm rather than all the way to 15 ppm would save significant costs, as it is the jump from 50 to 15 that requires building the desulfurization unit.

Mr. Johnson mentioned the effect on Montana of refineries being closed because they can't afford the expensive equipment. Mr. Blend said as three of the four refineries in Montana are in Billings this would have a significant effect on the whole economic structure of the Billings area.

Dave Galt, Montana Motor Carriers Association, said if any of the four Montana refineries closes because it doesn't feel it can recoup the costs, the demand equation will be thrown off. He said Montana would see a lot more than the projected increase in the price of diesel fuel, as Montana will go from having an adequate supply of fuel to being in short supply. Mr. Galt said going from 50 ppm to 15 ppm will be the hardest sulfur to remove and the most costly. He said refiners estimated four billion dollars to get to 50 ppm and an additional four billion dollars to get to 15 ppm.

Dexter Busby, Montana Refining Company of Great Falls, said EPA is reluctant to make any changes above the 15 ppm for the small refiners because the technology for the proposed diesel engines would be harmed by the higher sulfur diesel. Mr. Busby said there would be supply difficulties, as you can't pipeline the 15 ppm diesel with the higher sulfur diesel now being used. He said EPA has said they expect to lose about 20 to 30 refineries due to the expenses needed to drop to 50 ppm and they haven't made an estimate for the 15 ppm losses. Every one of these refineries except one is in the Rocky Mountain District, and we could see a very severe supply problem. Mr. Busby said about half of their diesel is sold for offroad use so they have the option of stopping producing onroad diesel and selling only offroad. He said some of the refineries in Billings might have a similar option but not all. Montana would be especially hard hit because we don't import fuel except what is coming out of Canada, and they are not 15 ppm and are not planning that as yet. Mr. Busby said there are a lot of unanswered questions. He said they feel they can make the investment to 30 ppm gasoline but when redoubling the refinery investment to make 15 ppm diesel with technology that has not been proven will be difficult within the allotted timeframe.

A question was asked if DEQ planned to study and then offer comments at the hearing on economic impacts. Mr. Blend said he is looking at costs and benefits to Montana and is working on comments for that.

It was mentioned that Governor Racicot has gone on record as supporting the desulfurization of gasoline.

Mr. Blend said he did not know if the department planned to take a position. He said he has not been asked to do a complete economic analysis and it would be difficult for one person to do that in only 90 days.

Mr. Busby said a national stand should be taken. He said his group would be interested in sitting down with the department on the time frame and examining this more closely.

Chairman Lorenzen asked if the department planned to comment and Mr. Habeck said notice to comment has not been directed down to the staff on this issue. He said there is a possibility of asking for an extension of comment time.

Ms. Lorenzen suggested a recommendation to DEQ to request an extension of comment time. Dean Johnson so moved and Dave Noell seconded it. Kathy Harris asked for discussion suggesting that rather than asking for a delay the Council might ask for clarification as to what direction the department plans to take.

Mr. Johnson said delaying the comment period beyond the allotted 90 days would enable the trucking and oil industries to make a more thorough economic evaluation.

Mr. Habeck suggested the Council could recommend that the department take a position to extend the comment period.

In response to Ms. Harris' suggestion that the delay request state a reason, Ms. Lorenzen said if the Council asks for a delay to take a position and the DEQ has no intention of taking a position, a delay wouldn't be requested. But if the delay is for the purpose of keeping the comment period open to private parties and they don't have to take a position on the issue, it is more likely to happen.

Ms. Harris asked if the federal government had any plans to fund the costs of implementing the rules. Mr. Blend said he didn't know if the federal government would funnel any funds for relief of smaller refineries to help them phase in standards. Mr. Noell said it would be funded by the corporations and then paid for by the customers. The corporations will recapture their costs to the extent possible. Mr. Johnson added that communities might be doing some bonding if smaller corporations are unable to do it on their own.

Ms. Lorenzen repeated the motion on the floor --that APCAC recommends to the DEQ director that DEQ formally request an extension of the comment period on the Diesel Fuel Rule. All members present were in favor.

Ms. Harris asked if they would hear more about this issue and if there will be any proposals to help finance this rule. Mr. Habeck said since the council has asked the department to take a course of action to extend a comment period, he will see that the council members stay informed.

b) Air Quality Issues with Coal Bed Methane. Abe Horpestad, PPAD, DEQ.

Coal Bed Methane (CBM) is the methane gas formed when certain coal beds formed. It was trapped by impermeable layers and became attached to the coal and dissolved in the water that's within these coal seams. Mr. Horpestad explained that in the process of capturing this methane gas, water within the coal seams is pumped to the surface and as this water cannot be put back into the coal seam it is most economical to discharge the water to the surface. Redstone Natural Gas Partners requested two CBM permits - to discharge to Squirrel Creek and to Tongue River. The one to Squirrel Creek was denied and the Tongue River one issued but with a lower discharge permit. The CBM water is high in sodium and unless there is sufficient dilution flow it would cause problems for irrigation. This water also contains ammonia, which could be toxic to fish if not sufficiently diluted.

To drill a CBM well you need a permit from the Board of Oil and Gas and Redstone had these permits. The Northern Plains Resource Council (NPRC) sued the Board of Oil and Gas on the basis that permits were issued without proper compliance with the Montana Environmental Policy Act (MEPA). The Board of Oil and Gas contended that a 1989 programmatic environmental impact statement (EIS) met MEPA requirements. However, this document does not contain the words coal bed or methane. The proposed settlement allows for up to 250 producing wells at Redstone. Also it would permit about 200 other exploration wells in the Powder River Region with the provision there is no economic production and no discharge to surface waters of the state. Mr. Horpestad said it was uncertain if the parties would agree to the settlement.

Mr. Horpestad said a lot of the CBM in southeast Montana is under federal land or the federal government holds mineral rights. The Bureau of Land Management (BLM) office in Miles City is working on an environmental assessment (EA), which was scheduled to be out in March and then postponed and the BLM just recently announced a sixty-day extension. Mr. Horpestad said supposedly the depth of analysis was insufficient and it might need an EIS. He said there has been a lot of development in Wyoming and most of the water from that development runs into Montana. Wyoming coal bed methane taxes and royalties produce about 13.5 percent of their total state budget. DEQ has put together a briefing paper, which has gone to the Governor on coal bed methane. It appears coal bed methane will be big in Montana and the DEQ briefing paper suggests the Governor appoint a group with a lead agency to manage the state's response.

Mr. Horpestad said he had toured the Redstone site. There was an oil well drilling rig on the site as they were hoping to find an aquifer in which to pump their excess water. Mr. Horpestad said one of the major limitations to development is availability of a pipeline and there are rumors of two major pipelines coming into Montana. In response to a question, Mr. Horpestad said he presumes that the coal beds by Red Lodge and Bozeman would have this methane gas but it is not found under lignite coal.

Dave Klemp, P&C, DEQ, said in regard to the air issue of CBM that five stations with two engines per station were permitted, each one has control equipment to bring emissions down so emissions are fairly insignificant. He said the department has received an application for ten additional engines.

b) East Helena Lead SIP. Rich Southwick, PPAD, DEQ.

Mr. Southwick gave an update on the East Helena Lead Emission Control Plan. He said the Environmental Protection Agency (EPA) notified the department that they were preparing to take final action on the plan. The final action was a limited approval and a limited disapproval. EPA is preparing to approve virtually all of the emission limitations, the compliance modeling demonstration and the monitoring requirements. They are preparing to approve the control plan as adequate for protecting the standard for lead in ambient air. The limited disapproval pertains to EPA's policies that prohibit department discretion in the state implementation plan (SIP). They prohibit the department from acting alone in approving changes. What might happen? If the department, ASARCO & Chemet refuse to change the control plan to specify EPA as the final authority, the disapproval will stay. Under the Clean Air Act, EPA has a mandate to impose sanctions for inadequate emission control plans. These sanctions could come in two forms – highway funding sanctions or the two-to-one offset requirement. This last sanction is that if ASARCO were to propose an increase in lead emissions as a result of a new process, the modification would have to be offset by the removal of twice that amount of existing emissions. Another possibility is the attainment demonstration. The area is designated nonattainment and unless the area has an approved emission control plan it cannot be redesignated. EPA will propose the rule, open up a comment period and take their final action based on the comment period.

Mr. Mahler asked if EPA was planning to impose sanctions. Mr. Southwick said he didn't know.

4. Rulemaking Action Items:

a) Calendar Year 2000 Fees Update. Nancy Jones, Fiscal Officer, Air and Waste Management Bureau, P&C, DEQ.

Ms. Jones said the Air Quality Preconstruction Permit Application Fee would be amended by deleting the $1000 fee for review and prevention of significant deterioration (PSD) and charging the $500 fee of all applicants. The reason for this is the difficulty to determine whether the applicant is a PSD source. The department receives few PSD applications, only two last year, so this will have a minimal impact on the total fee collections.

Also amended would be the annual air quality operation fees to adjust the fee rate for calendar year 2000. The administrative charge of $400 for each permit did not change. The charge per ton of PM10 is $21.12 an increase of 26 cents from last year. These fees change annually due to changes in emission, legislative appropriation and any carryover.

Ms. Jones said the time frame for incurring late payment charges was amended from 90 days to 60 days after the billing. The late payment charge was amended from 15 percent of the air quality operation fee to 10 percent. Also, being removed is the minimum late charge.

The major open burning permit applications are being amended to increase the fees. The new fees are $13.62 per ton for particulate and $3.40 for nitrogen oxide and volatile organic compounds.

5. Confirmed next meeting date for September 7 at 2 p.m. (a Thursday).

Mr. Johnson moved and Mr. Machler seconded a motion to adjourn. All members were in favor. Meeting adjourned at 3:55 p.m.